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Kent H. Roberts

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

KENT H. ROBERTS,

Defendant.

Case No. C 07-04580 MHP

**AMENDED AND CORRECTED
DECLARATION OF EINAT SANDMAN
CLARKE IN SUPPORT OF DEFENDANT
KENT ROBERTS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL PORTIONS
OF DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS FROM
THIRD PARTY HOWREY LLP, THE
DECLARATION OF WILLIAM S. FREEMAN
IN SUPPORT THEREOF AND EXHIBITS D, E,
F, J, K, N, O, R, S, T & U TO THE
DECLARATION OF WILLIAM S. FREEMAN**

Judge: Hon. Marilyn H. Patel

I, Einat Sandman Clarke, declare as follows:

1. I am an attorney licensed to practice law in the State of California and an associate at the law firm of Cooley Godward Kronish LLP, counsel of record for defendant Kent Roberts ("Roberts"). The following facts are based on personal knowledge or on information and belief based upon my review of documents and sources I believe to be trustworthy.

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1 2. The Roberts' Motion to Compel Production of Documents from Third Party
2 Howrey LLP and the Declaration of William S. Freeman in Support of Roberts' Motion to
3 Compel Production of Documents from Third Party Howrey LLP ("Freeman Declaration") refers
4 to and contains documents that have been designated confidential subject to a Stipulation and
5 Protective Order entered into in this case on November 16, 2007 ("*Roberts* Protective Order") and
6 a Protective Order ("*Weiss* Protective Order") entered in the arbitration proceeding of *Kevin*
7 *Weiss v. McAfee, Inc.*, American Arbitration Association, No. 71 166 00038 07 ("*Weiss*
8 *Arbitration*").

9 3. Attached hereto as Exhibit A is a true and correct copy of the *Roberts* Protective
10 Order.

11 4. Attached hereto as Exhibit B is a true and correct copy of the *Weiss* Protective
12 Order.

13 5. Defendant received the documents subject to the *Weiss* Protective Order from the
14 government in the course of discovery, and has been informed by counsel for Kevin Weiss and
15 McAfee, Inc. ("McAfee") that the documents are sealable. Attached hereto as Exhibit C is a
16 correspondence between Roberts' counsel and counsel for Kevin Weiss regarding the documents
17 that Defendant has moved to file under seal.

18 6. Roberts' counsel has advised counsel for both parties in the *Weiss* Arbitration of
19 the filing of Roberts' Motion to Compel Production of Documents from Third Party Howrey
20 LLP, and that the Freeman Declaration contains documents that have been designated
21 confidential under the *Weiss* Protective Order. Roberts' counsel referred both parties to their
22 obligations regarding the sealed documents under Civil Local Rule 79-5. Courtesy copies of the
23 Motion to Compel and supporting documents have been sent to counsel for Kevin Weiss and
24 McAfee.

25 7. Exhibit D to the Freeman Declaration contains excerpts from the Deposition of
26 Transcript of Robert E. Gooding, Jr., taken in the course of the *Weiss* Arbitration.

27 8. Exhibit O to the Freeman Declaration contains excerpts from the Deposition of
28 Transcript of David T. Bartels, taken in the course of the *Weiss* Arbitration.

